DAMAGES—DENIAL OF RECOVERY FOR MENTAL SUFFERING UNDER STATUTE—Action by husband to recover damages, alleging, among other grounds, mental suffering by his wife resulting from a fire negligently set by defendant railroad company, which fire spread to and burned on plaintiff's premises. A statute of Oklahoma Territory, in which the case arose, provides that any railroad company operating a line within that jurisdiction shall be liable for *all damages* sustained from fire originating from operating the road. *Held*, that the term "all damages" did not include mental anguish, suffering, terror, and other states of mind when unaccompanied by physical injuries or sufferings. *Tiller* v. *St. Louis & Santa Fe R. Co.* (1911) 189 Fed. 994.

The court interprets this statute so that its decision is in accord with a rule of damages adopted by a majority of the States, in the absence of any such statute as here exists. *Kyle* v. *Chicago R. I. & P. Ry Co.*, 182 Fed. 613; *Huston* v. *Freemansburg*, 212 Pa. 548; *Morse* v. *Chesapeake & Ohio Ry.*, 117 Ky. 11; *Rawlings* v. *Wabash Ry.*, 97 Mo. App. 511; *Gatzow* v. *Buening*, 106 Wis. 1. It is probable that the legislature desired to overcome this "rigid rule" of damages, as it is termed by SEDGWICK ELEMENTS OF DAMAGES, Ed. 2, p. 109, but, according to the court, the term "all damages" must be given its legal meaning, nothing to the contrary appearing in the context of the statute. Hence "all damages" must be construed as applicable only to such cases of invasion by one of the rights of another to his injury as will be compensated by law, and not to those acts dominated in the law "damnum absque injuria." Statutes of this nature have been adopted by only a few of the states, the only one exactly in point being in Wisconsin. And the supreme court of that State gave that Statute the same interpretation as in the principal case, stating that if any radical change in the law had been contemplated, the act would have so expressed in no uncertain terms. *Summerfield* v. *Western Union Tel. Co.*, 87 Wis. 1. Such statutes must be strictly interpreted. *Western Union Tel. Co.* v. *Burris*, 179 Fed. 92. However, if the plaintiff had sued for injury to his property because of the neglect of the railroad company in allowing fire to consume a portion of his buildings, there are cases which would authorize as part of the damages recoverable the mental suffering of his wife. *Meagher* v. *Driscoll*, 99 Mass. 281; *Moyer* v. *Gordon*, 113 Ind. 282; *Kimball* v *Holmes*, 60 N. H. 163; *City National Bank* v. *Jeffries*, 73 Ala. 183.

EQUITY—EQUITABLE SET-OFF OF CLAIM ACQUIRED AFTER INSTITUTION OF SUIT. Defendant, a foreign corporation doing business in Mississippi, sold plaintiff a piano to be paid for on the installment plan. Default was made in the payments and the defendant brought suit to replevin the piano. Plaintiff seeks to enjoin the replevin suit, to redeem the piano from the lien sought to be enforced by the defendant, and to establish a set-off against the defendant which was acquired after the institution of the suit. *Held* that the injunction would be granted and the set-off allowed. *McIntyre* v. *E. E. Forbes Piano Co.* (Miss. 1911) 56 South. 457.

The general rule is that a claim acquired after the institution of a suit cannot be valid as a set-off. *Reynolds* v. *Thomas and Smith*, 28 Kans. 810;

Cook & Woldson v. *Gallatin Ry. Co.*, 28 Mont. 509; *Gurske* v. *Kelpin*, 61 Neb. 517. But a line of cases hold that where the plaintiff is a non-resident or is insolvent, equity will allow a set-off which would not be available at law. *Fitzgerald* v. *Wiley*, 22 App. D. C. 329, citing *North Chicago Rolling Mill Co.* v. *St. Louis Ore & Steel Co.*, 152 U. S. 596, in which latter case the claim was unliquidated, and so could not be set-off, but equity intervened to ascertain the amount and ordered it set-off in order to prevent the injustice of compelling another suit in another court. In *Bibb Land-Lumber Co.* v. *Lima Machine Works*, 104 Ga. 116, the same principle is stated to have been laid down in Georgia in *Lee* v. *Lee*, 31 Ga. 26; *Harwood* v. *Andrews*, 71 Ga. 784; and *Barrow* v. *Mallory Bros. & Co.*, 89 Ga. 76. STORY, EQUITY (Ed. 2, p. 1437a) states the rule that equity usually follows the law in regard to set-offs arising after suit is begun, but equities "too various for enumeration" may arise to call for equitable relief. That insolvency is a ground seems undoubted. That nonresidence is also a ground is held in cases cited above and in *Carson* v. *Carson*, 59 Ky. (2 Metc.) 96. *Contra*: *Smith* v. *Wash. Gaslight Co.*, 31 Md. 12; *Isenburger* v. *Hotel Reynolds Co.*, 177 Mass. 455. The principal case seems to define one of the "various reasons" and to eniarge the scope of the equitable jurisdiction, for here the defendant had an office, an agent, and a large stock of goods within the jurisdiction, so that the usual ground for jurisdiction in cases where the party is a non-resident does not apply. This broader application of equity jurisdiction is to be favored as it tends to do away with multiplicity of suits, settles all claims in one action, and gives substantial justice in many instances where the second suit would avail the plaintiff nothing.

EQUITY—INJUNCTION—TRADE SECRETS. The plaintiff company is a manufacturer of oxygen for commercial uses, and hired defendant as its servant, by a contract of employment, which is about to expire, providing that the defendant shall not divulge trade secrets. Defendant has already signed a contract to work for another company and has agreed to manufacture commercial oxygen. Plaintiff seeks to enjoin defendant from communicating to his new employer the specific method of manufacturing such oxygen used by plaintiff. *Held* injunction not granted. *S. S. White Dental Manufacturing Co.* v. *Mitchell* (1911), 188 Fed. 1017.

The general rule is that employees of one having a trade secret, who are under express contract or a contract implied from their confidential relations to their employer, not to disclose the secret, will be enjoined from divulging or using the same to the injury of their employer, whether before or after they have left his employ, 22 CYC. 843; *Stone et al* v. *Goss et al.*, 65 N.J. Eq. 756, 55 Atl. 736. The mere fact that the defendant denies his intention to do the act is not sufficient ground for denying the injunction. On the other hand there must be actual or probable injury. In the principal case the court denies the injunction, relying on the statement of the defendant that he does not intend to divulge the secret, and upon the fact that the defendant's new employment, where the secret of the plaintiff would naturally be called into use, is in another jurisdiction, where an injunction would be ineffective. The